

# NEW HAMPSHIRE REAL ESTATE COMMISSION

## COMMISSION MEETING

**JANUARY 21, 2014**

A meeting of the New Hampshire Real Estate Commission was held on Tuesday, January 21, 2013 at 8:30 a.m. in the Real Estate Commission Conference Room, 64 South Street, Concord, New Hampshire 03301.

- I. Meeting was called to order at 8:33 a.m. by Chairman Daniel Jones.  
Present: Commissioners Daniel Jones, David Dunn, William Barry, Paul Lipnick, and James Therrien.

- II. On motion by Commissioner Therrien, seconded by Commissioner Lipnick, the Commission approved the Minutes of the Commission meeting held on December 10, 2013.

III. **APPOINTMENTS**

8:35 a.m. – Equivalency Appointment – STEPHEN G. NADEAU

Mr. Nadeau appeared before the Commission to request that his real estate experience be approved as sufficient experience pursuant to RSA 331-A:10, II (c) and (g). After review and discussion, the Commission, on motion by Commissioner Dunn, seconded by Commissioner Therrien, decided to approve Mr. Nadeau's real estate experience as sufficient experience pursuant to RSA 331-A:10, II (c) and (g).

**SHOW CAUSE HEARING**

8:45 a.m. RAYMOND G. AUTIELLO, JR. appeared before the Commission for a show cause hearing regarding his previous legal incident he disclosed on his application for an original salesperson's license. After review and discussion, the Commission, on motion by Commissioner Therrien, seconded by Commissioner Lipnick, decided to allow Mr. Autiello to apply for his original salesperson's license. Commissioner Barry was opposed to the decision.

**SHOW CAUSE HEARING**

9:17 a.m. FREDERICK L. RICHARDS, JR. appeared before the Commission for a show cause hearing regarding his previous legal incident he disclosed on his application for an original salesperson's license. After review and discussion, the Commission, on motion by Commissioner Dunn, seconded by Commissioner Lipnick, decided to allow Mr. Richards to apply for his original salesperson's license. Commissioner Barry was opposed to the decision. Commissioner Therrien was recused from the discussion and decision.

9:31 a.m. FRANK A. MORAN appeared before the Commission to request reinstatement of his lapsed real estate salesperson's license pursuant to RSA 331-A:18, II. After review and discussion, the Commission, on motion by Commissioner Dunn, seconded by Commissioner Therrien decided to allow Mr. Moran to reinstate his lapsed salesperson's license based on good cause shown as required by RSA 331-A:18, II. Commissioner Barry was opposed to the decision.

IV. **HEARING 9:50 AM**

FILE NO. 2013-023 NEW HAMPSHIRE REAL ESTATE COMMISSION & PAUL BERUBE VS RUTH P. MOONEY

The following persons were present at the hearing:

Commission: Commissioners Daniel Jones, David Dunn, William Barry, and Paul Lipnick.

Evaluator: Commissioner Therrien evaluated the above matter and abstained from participation in the discussion.

Complainant: The NH Real Estate Commission through its Investigator Ann Flanagan  
&  
Paul Berube

Attorneys: Pro Se

Respondent: Ruth P. Mooney

Attorney: Allison M. Ambrose, Esquire

Witnesses: Mark Mooney  
John P. Giere, Esquire

V. **OTHER BUSINESS**

1. The Commission unanimously approved the following date for the February meeting:

February 18, 2014 at 8:30 a.m.

2. **CASE EVALUATIONS**

(a) **FILE NO. 2013-039**

Evaluator: Commissioner Barry

Determination: On motion by Commissioner Therrien, seconded by Commissioner Lipnick, the Commission approved the evaluating commissioner's determination to offer a Settlement Agreement to the Respondents in the alternative to a hearing.

(b) **FILE NO. 2013-041**

Evaluator: Commissioner Dunn

Determination: On motion by Commissioner Barry, seconded by Commissioner Therrien, the Commission approved the evaluating commissioner's determination to offer a Settlement Agreement to the Respondent in the alternative to a hearing.

3. **ORDERS**

The following Orders were issued by the Commission and are attached to the Minutes of this meeting:

- (1) FILE NO. 2013-016 NEW HAMPSHIRE REAL ESTATE COMMISSION VS JOSHUA W. PIPER
- (2) FILE NO. 2013-034 NEW HAMPSHIRE REAL ESTATE COMMISSION VS MELISSA ANN LESNIAK & NATHAN W. DICKEY

#### 4. COURSE ACCREDITATIONS AND RE-ACCREDITATIONS

The following continuing education courses were approved for accreditation by the Commission:

COMMERCIAL REAL ESTATE: FROM THE BEGINNING (Internet) 3 HOURS  
Course Provider: McKissock, LP

MORTGAGES, LOANS AND LAWS – HOW THEY HELP YOUR CLIENT 1 HOUR  
(Internet)  
Course Provider: McKissock, LP

BUYER REPRESENTATION IN REAL ESTATE (Correspondence Book) 3 HOURS  
Course Provider: ABC Real Estate Training Institute

The following continuing education courses were denied accreditation by the Commission:

COMMON MISTAKES EVERY AGENT SHOULD AVOID (Internet) 3 HOURS  
Course Provider: McKissock, LP

REAL ESTATE MARKET PULSE (Internet) 3 HOURS  
Course Provider: Dearborn Real Estate Education

SELLING HUD HOMES: INCREASE YOUR CLIENTS OPTIONS 3 HOURS  
Course Provider: Dearborn Real Estate Education

SHORT SALES 2 HOURS  
Course Provider: ABC Real Estate Training Institute

The following continuing education courses were approved for re-accreditation by the Commission:

CRS 201 LISTING STRATEGIES FOR THE RESIDENTIAL SPECIALIST 3 HOURS  
Course Provider: Council of Residential Specialists

CRS 202 EFFECTIVE BUYER SALES STRATEGIES 1 ½ HOURS  
Course Provider: Council of Residential Specialists

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|---|---------------|
| CRS 204 BUYING AND SELLING INCOME PROPERTIES<br>Course Provider: Council of Residential Specialists   | 3 HOURS       |
| UNDERSTANDING TODAY'S INVESTORS (Internet)<br>Course Provider: Dearborn Real Estate Education         | 3 HOURS       |
| WORKING WITH TODAY'S BUYERS<br>Course Provider: David Millett   | 3 HOURS       |
| EPA/HUD CERTIFIED RENOVATION, REPAIR AND PAINTING<br>Course Provider: Lead-EDU                        | 3 HOURS       |
| LEAD SAFETY IN THE HOME<br>Course Provider: Lead-EDU  | 3 HOURS       |
| A BRIEF INTRODUCTION TO REAL ESTATE FINANCE (Internet)<br>Course Provider: The CE Shop, Inc.          | 1 ½ HOURS     |
| ADVOCATING FOR SHORT SALE CLIENTS (Internet)<br>Course Provider: The CE Shop, Inc.                    | 3 HOURS       |
| SIGN HERE: CONTRACT LAW ON E-SIGNATURES (Internet)<br>Course Provider: The CE Shop, Inc.              | 3 HOURS       |
| WHAT REAL ESTATE PROFESSIONALS NEED TO KNOW ABOUT<br>FHA (Internet)<br>Course Provider: McKissock, LP | 1 HOUR        |
| THE TRUTH ABOUT MOLD (Internet)<br>Course Provider: Dearborn Real Estate Education                    | 3 HOURS       |
| I WON'T DO THAT AGAIN<br>Course Provider: Kathy Roosa School of Real Estate                           | 2 AND 3 HOURS |
| TOWN HALL<br>Course Provider: Kathy Roosa School of Real Estate                                       | 2 HOURS       |
| LET'S TALK AGENCY<br>Course Provider: Kathy Roosa School of Real Estate                               | 2 HOURS       |
| BUYER AGENCY<br>Course Provider: Kathy Roosa School of Real Estate                                    | 2 HOURS       |

|  |         |
|--|---------|
| PRICING ANALYSIS, STRATEGIS AND SYSTEMS FOR TODAY'S<br>SELLER CLIENTS<br>Course Provider: Anita Hill | 2 HOURS |
| BROKER RELATIONSHIPS<br>Course Provider: Anita Hill  | 2 HOURS |
| AMERCIANS WITH DISABILITIES ACT (ADA)<br>Course Provider: ABC Real Estate Training Institute         | 2 HOURS |
| COMMERCIAL LEASING<br>Course Provider: ABC Real Estate Training Institute                            | 2 HOURS |
| CONDO'S, CO-OP'S & TIMESHARES<br>Course Provider: ABC Real Estate Training Institute                 | 2 HOURS |
| CONTRACT LAW<br>Course Provider: ABC Real Estate Training Institute                                  | 2 HOURS |
| SMART GROWTH/SMART ENERGY<br>Course Provider: ABC Real Estate Training Institute                     | 2 HOURS |
| LICENSEE TO REALTOR – NEW MEMBER ORIENTATION<br>Course Provider: Lynne LaBombard                     | 2 HOURS |

The following continuing education course was denied re-accreditation by the Commission:

|  |        |
|--|--------|
| SHORT SALES (Internet)<br>Course Provider: McKissock, LP | 1 HOUR |
|--|--------|

The following continuing education courses submitted by licensee Philip H. Stickler, III were denied individual accreditation by the Commission:

FINANCING TRANSACTIONs WITH RETIREMENT FUNDS

BUYER REPRESENTATION: INDIVIDUAL, CORPORATE AND PRIVATE  
EQUITY BUYERS

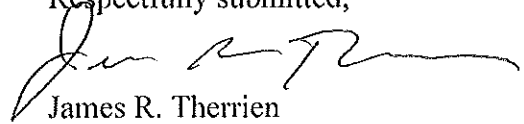
USE OF TRANSACTIONAL DATA: ISSUES AND OPPORTUNITIES IN THE DATA

DEVELOPING SUPERIOR CBRs (CONFIDENTIAL BUSINESS REVIEW)

VI. **ADJOURNMENT**

On a motion by Commissioner Barry, seconded by Commissioner Therrien, Chairman Daniel Jones adjourned the meeting at 12:58 p.m.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "James R. Therrien", written in a cursive style.

James R. Therrien  
Clerk

**Before the  
New Hampshire Real Estate Commission  
Concord, New Hampshire 03301**

**In The Matter Of:** **Docket No.: 2013-016**  
**New Hampshire Real Estate Commission v. Joshua W. Piper**  
License No.: 055079  
(Adjudicatory/Disciplinary Proceeding)

**FINAL DECISION AND ORDER**

Before the New Hampshire Real Estate Commission ("Commission") is an adjudicatory/disciplinary proceeding In the Matter of Joshua W. Piper ("Respondent" or "Mr. Piper") in Docket Number 2013-016.

**Background Information:**

Respondent submitted his Application for Renewal of Salesperson's License and disclosed two criminal convictions at the time of renewal for a Class A misdemeanor offense of Simple Assault and a Class A misdemeanor offense of Possession/Transportation of Drugs and failed to disclose the simple assault conviction to the Commission within 30 days of the conviction. On April 29, 2013, the Commission's Investigator Ann Flanagan initiated Complaint File No. 2013-016 against Respondent. Subsequent to an investigation, on September 25, 2013, the Commission issued a Notice of Hearing for a hearing scheduled for November 19, 2013.

On Tuesday, November 19, 2013, at 11:20 a.m., the Commission commenced the adjudicatory/ disciplinary hearing in the above captioned matter. Commission members present<sup>1</sup> were:

David C. Dunn, Commissioner, Presiding Officer  
Daniel S. Jones, Commissioner  
Paul A. Lipnick, Commissioner  
James R. Therrien, Commissioner

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<sup>1</sup> These same Commission members also deliberated and voted on this Final Decision and Order.

The prosecution was conducted by Ann Flanagan, the Commission's Investigator. Mr. Piper was prosecuted.

The following exhibits were introduced into evidence and accepted into the record:

- Complainant Investigator Flanagan's Exhibits:
  - Exhibit #1 - Complaint File 2013-016: pages 1-48.
  - Exhibit #2 – NH Criminal History Record dated 4/5/2013 and Joshua Piper's real estate license record, pages 1-76,
- The Respondent's exhibits: none were introduced.

There were no witnesses present at the hearing:

**Findings of Fact:**

In light of the testimony and exhibits, the Commission finds the following facts:

1. Respondent was first issued a license as a real estate salesperson from the Commission on April 3, 2002, license #055079.
2. Respondent answered "yes" to question #4, "Have you, since your last original or renewal application, been convicted of a felony or misdemeanor offense that has not been annulled by a court?" on his Application for Renewal of Salesperson's License and submitted a Commission Arrest & Conviction Form, along with a copy of his NH Criminal History Record from the NH Department of Safety, Division of State Police dated February 7, 2011, to the Commission which was received at the Commission office on October 4, 2012. (Ex. 1, pages 19-32)
3. Respondent submitted an updated NH Criminal History Record from the NH Department of Safety, Division of State Police dated April 5, 2013, which was received at the Commission office on April 9, 2013. (Ex. 1, pages 34-35)
4. The NH Criminal History Record submitted by Respondent showed that he plead guilty and was convicted on June 15, 2011 of a Class A misdemeanor offense of Simple Assault with



a sentence of 60 days in the House of Corrections suspended to 14 days in the House of Corrections and \$1,000 suspended fine based upon 2 years Good Behavior and pled guilty and was convicted on June 10, 2011 of a Class A misdemeanor offense of Possession/Transportation of Drugs with a sentence of a \$500 fine. (Ex. 1, pages 34-35)

5. Respondent disclosed the Class A misdemeanor offense of Simple Assault on the Commission Arrest & Conviction Form with his renewal received at the Commission office on October 4, 2012; however, Respondent was required to disclose the Simple Assault conviction to the Commission within 30 days of the conviction. (Ex. 1, pg. 24)

6. Respondent testified at the hearing that he did not disclose his conviction of a Class A Misdemeanor offense of Simple Assault to the Commission within 30 days of the conviction.

7. Respondent testified at the hearing that it was a very dramatic and embarrassing time in his life. Respondent stated he had to take a vacation from work to serve the 14 day sentence at the Rockingham County Corrections and that he was in a management position at the time at Carey & Giampa Realtors managing five offices, responsible for hiring, training, scheduling and advertising responsibilities.

8. Respondent testified that when he had completed his 14 day sentence at the Rockingham County Corrections, he was concentrating on getting back on track with his life, but things were very unsettled in his life and it was an oversight on his part that he did not notify the Commission of his conviction of Simple Assault within the 30 day period requirement.

9. Respondent testified that he had no intention to hide the conviction from the Commission.

**Relevant Law:**

**RSA 331-A:1 Purpose.** It is the policy of this state to regulate the practice of real estate brokers and salespersons in order to ensure that they meet and maintain minimum standards which promote public understanding and confidence in the business of real estate brokerage.

**RSA 331-A:26 Prohibited Conduct.**

III. Being convicted in a court of competent jurisdiction of this or any other state, or federal court, of forgery, embezzlement, obtaining money under false pretenses, bribery, larceny, extortion, conspiracy to defraud, sexual crimes, drug distribution, arson, physical violence, or any similar offense or offenses; provided that, for the purposes of this section being convicted shall include all instances in which a plea of guilty or nolo contendere is the basis for the conviction, and all proceedings in which the sentence has been deferred or suspended.

XXXVII. Failing to inform the commission in writing within 30 days of being convicted in a court of competent jurisdiction of this or any other state of federal court, of forgery, embezzlement, obtaining money under false pretenses, bribery, larceny, extortion, conspiracy to defraud, or any similar offense or offenses, or an offense or offenses involving sexual crimes, drug distribution, arson, or physical violence; provided that, for the purposes of this paragraph, being convicted shall include all instances in which a plea of guilty or nolo contendere is the basis for the conviction, and all proceedings in which the sentence has been deferred or suspended. This paragraph applies only when the conviction has not first been annulled by a court pursuant to RSA 651:5.

**Rulings of Law:**

The Commission makes the following findings by a preponderance of the evidence:

1. The Respondent was convicted of a Class A misdemeanor for Simple Assault on June 15, 2011 and failed to disclose the Simple Assault conviction to the Commission within 30 days of the conviction. Therefore, the Commission found Respondent in violation of RSA 331-A:26, III and XXXVII. (Notice of Hearing, paragraph 5A and 5B).

**Disciplinary Action:**

Based upon the Findings of Facts and Rulings of Law above, the Commission has voted to order the following:

IT IS **ORDERED** that the Respondent pay a disciplinary fine in the amount of two-hundred fifty dollars (\$250) for each violation with a total fine in the amount of five-hundred dollars (\$500) to the New Hampshire Real Estate Commission, payable to the Treasurer State of New Hampshire within one-hundred twenty (120) days of the effective date of this Order.

IT IS **FURTHER ORDERED** that failure to comply with this disciplinary Order will result in the suspension of Respondent's real estate license until the fine is paid.

IT IS **FURTHER ORDERED** that the Respondent's failure to comply with any terms or conditions imposed by this Final Decision and Order shall constitute unprofessional conduct pursuant to RSA 331-

A:26, XXIX, and a separate and sufficient basis for further disciplinary action by the Commission against the Respondent.

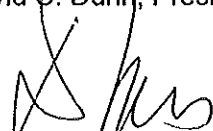
IT IS FURTHER **ORDERED** that this Final Decision and Order shall become a permanent part of the Respondent's disciplinary file, which is maintained by the Commission as a public document.

IT IS FURTHER **ORDERED** that if this decision is not appealed within 30 days of the effective date, it shall become final. See RSA 331-A:28, III ("The action of the commission in revoking, suspending, or denying a license or accreditation, or levying a fine, shall be subject to appeal to the superior court at the instance of the licensee or an accredited individual, institution, or organization, within 30 days after the filing of the commission's decision...").

IT IS FURTHER **ORDERED** that this Final Decision and Order shall take effect as an Order of the Commission on the date the Commission signs it.

  
\_\_\_\_\_  
David C. Dunn, Presiding Officer

1/21/2014  
Date

  
\_\_\_\_\_  
Daniel S. Jones, Commissioner

1/21/14  
Date

  
\_\_\_\_\_  
Paul A. Lipnick, Commissioner

Jan. 21, 2014  
Date

  
\_\_\_\_\_  
James R. Therrien, Commissioner

01/21/2014  
Date

\*\ William E. Barry, Commission member, (case evaluator) recused.

**Before the  
New Hampshire Real Estate Commission  
Concord, New Hampshire 03301**

**In The Matter Of:** **Docket No.: 2013-034**  
**New Hampshire Real Estate Commission v. Melissa Ann Lesniak  
& Nathan W. Dickey**  
License Nos.: 061367; 054118  
(Adjudicatory/Disciplinary Proceeding)

**FINAL DECISION AND ORDER**

Before the New Hampshire Real Estate Commission ("Commission") is an adjudicatory/disciplinary proceeding In the Matter of Melissa Ann Lesniak ("Respondent Lesniak" or "Ms. Lesniak"), and Nathan W. Dickey ("Respondent Dickey" or "Mr. Dickey") in Docket Number 2013-034.

**Background Information:**

Respondent Lesniak was the listing agent for 30 New Hampshire property listings posted on Northern New England Real Estate Network ("NNEREN") with an expired NH real estate salesperson's license. Respondent Lesniak answered "No" to question #6 on her NH salesperson renewal application: "Have any licenses which you have held to sell real estate been subject to disciplinary action in any state since your last original or renewal application. If yes, attach a letter of explanation disclosing which jurisdiction(s), details of the offense(s), and details of disciplinary action(s).", when she had entered into a Consent Agreement with the Maine Real Estate Commission prior to her NH renewal which required Respondent Lesniak to pay a \$500 disciplinary fine to the State of Maine. Respondent Dickey, as the principal broker for Respondent Lesniak, failed to supervise the activities of Respondent Lesniak who had active real estate listings during the time her license was expired and by signing Respondent Lesniak's Salesperson Affiliation Form on her NH salesperson renewal application where she failed to disclose her disciplinary action against

her Maine real estate associate broker license. Subsequent to an investigation, on October 25, 2013, the Commission issued a Notice of Hearing for a hearing scheduled for December 10, 2013.

On Tuesday, December 10, 2013, at 10:10 a.m., the Commission commenced the adjudicatory/ disciplinary hearing on Complaint File No. 2013-034. Commission members present<sup>1</sup> were:

David C. Dunn, Commissioner, Presiding Officer  
Daniel S. Jones, Commissioner  
Paul A. Lipnick, Commissioner

The prosecution was conducted by Ann Flanagan, the Commission's Investigator. Ms. Lesniak and Mr. Dickey were pro se.

The following exhibits were introduced into evidence and accepted into the record:

- Complainant Investigator Flanagan's Exhibits:  
Exhibit #1 - Complaint File 2013-034: pages 1-73.
  
- Respondent Lesniak's & Respondent Dickey's Exhibits:  
Exhibit A – Agent License Renewal Reminders  
Exhibit B – Agent License Renewal, "Red Flag" List

There were no witnesses present at the hearing:

#### **Findings of Fact:**

In light of the testimony and exhibits, the Commission finds the following facts:

1. Respondent Lesniak was first granted a NH real estate salesperson's license on July 19, 2005. At the time of the allegations, Respondent Lesniak's real estate salesperson license #061367 was expired. Respondent Dickey was first granted a NH real estate salesperson's license

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<sup>1</sup> These same Commission members also deliberated and voted on this Final Decision and Order.

on May 7, 2001, and a NH real estate broker license on January 19, 2006. At the time of the allegations, Respondent Dickey was licensed as a NH real estate broker, license number 054118.

2. Respondent Lesniak's New Hampshire real estate salesperson license expired on July 19, 2013.

3. On September 4, 2013, Respondent Lesniak was the listing agent for 30 New Hampshire property listings posted on the Northern New England Real Estate Network ("NNEREN") with an expired NH real estate salesperson's license. (Ex. 1, pages 22-68)

4. Respondent Lesniak submitted an Application for Renewal of Salesperson's License which was received at the Commission office and renewed on September 6, 2013. (Ex. 1, pages 16-18)

5. Respondent Lesniak answered "No" to question #6 on her renewal application: "Have any licenses, which you have held to sell real estate been subject to disciplinary action in any state since your last original or renewal application? If "yes", attach a letter of explanation disclosing which jurisdiction(s), details of the offense(s) and details of disciplinary action(s)." (Ex. 1, pg. 17)

6. Respondent Lesniak had entered into a Consent Agreement with the Maine Real Estate Commission for falsely certifying continuing education requirements for renewal of her Maine real estate associate broker license while licensed under Respondent Nathan Dickey of New England Coastal Realty, Inc., dba: Keller Williams Coastal Realty and Respondent Lesniak was required to pay a \$500 disciplinary fine and submit 2 hours of continuing education; this Consent Agreement was approved by the Maine Real Estate Commission on May 10, 2012. (Ex. 1, pages 19-21)

7. Respondent Dickey is the principal broker of New England Coastal Realty, Inc. dba: Keller Williams Coastal Realty, and has failed to supervise the activities of Respondent Lesniak who had active real estate listings during the time her license was expired and by signing Respondent Lesniak's Salesperson Affiliation Form on her renewal application on September 5, 2013, where she failed to disclose her disciplinary action against her Maine real estate associate broker license while

licensed under Respondent Dickey as the responsible broker in Maine of New England Coastal Realty, Inc. dba: Keller Williams Coastal Realty. (Ex. 1, pg. 18)

8. Respondents Lesniak and Dickey in their response to the complaint stated that the allegations were an oversight on their part. (Ex. 1, pg. 73)

9. Respondent Lesniak testified at the hearing that she answered "No" to question #6 on her NH salesperson renewal application because she thought that the question only related to NH licenses not about a Maine license.

10. Respondent Lesniak testified that she must have overlooked where question #6 refers to licenses that have been subject to disciplinary action in any state, and did not intentionally try to conceal her disciplinary action received from the Maine Real Estate Commission.

11. Respondent Dickey testified at the hearing that it is his responsibility to make sure that his agents have current active licenses if they are actively listing property.

12. Respondent Dickey testified that there was no system in place to ensure that all agents' licenses were active where the agent was actively listing property, and that there is a system in place since this complaint to make sure this situation does not happen again.

13. Respondent Dickey explained at the hearing that the staff is now checking the licenses to track who is expiring within 3 months of the expiration of the license to make sure the licensees are notified to make sure they complete their continuing education requirements and renewal license requirements prior to expiration of license. (Ex. A & B)

14. Respondent Dickey admitted at the hearing that when he signed Respondent Lesniak's Salesperson Affiliation Form on her salesperson renewal application received at the Commission on September 6, 2013 that he signed the form without reviewing Respondent Lesniak's renewal application.

**Relevant Law:**

**RSA 331-A:1 Purpose.** It is the policy of this state to regulate the practice of real estate brokers and salespersons in order to ensure that they meet and maintain minimum standards which promote public understanding and confidence in the business of real estate brokerage.

**RSA 331-A:18 Lapse of License.**

IV. The rights of the licensee under such expired or lapsed license shall be terminated. It shall be unlawful to act or attempt or offer to act in any matter as a real estate broker or salesperson under an expired or lapsed license.

**RSA 331-A:26 Prohibited Conduct.** – The following acts, conduct or practices are prohibited, and any licensee found guilty after a hearing shall be subject to disciplinary action as provided in RSA 331-A:28:

I. Obtaining or attempting to obtain a license by means of fraud, misrepresentation, or concealment.

XXVII. In the case of a principal broker or a licensee who is a branch manager, failing to exercise reasonable supervision over the activities of licensees and any unlicensed staff.

**Rea 401.01 Renewals of License.**

(b) Applicants for renewal of a salesperson's license shall use Form 7-RE and provide the following:

(15) Any real estate licenses that have been subject to disciplinary actions in any state since the licensee's last original or renewal application.

**Rulings of Law:**

The Commission makes the following findings by a preponderance of the evidence:

1. Respondent Lesniak on September 4, 2013 was the listing agent for 30 New Hampshire property listings posted on NNEREN with an expired NH real estate salesperson's license in violation of RSA 331-A:18, IV. (Notice of Hearing, paragraph 5A)

2. Respondent Lesniak failed to disclose on her NH Application for Renewal of Salesperson's License received at the Commission on September 6, 2013, her Maine real estate license that was subject to disciplinary action since her last NH salesperson renewal application by answering "No" to question #6 on the renewal application form, in violation of RSA 331-A:26, I and Rea 401.01 (b) (15). (Notice of Hearing, paragraph 5B and 5C)

3. Respondent Dickey, as principal broker for Respondent Lesniak failed to exercise reasonable supervision over the activities of Respondent Lesniak who had active real estate listings during the time her license was expired and by signing Respondent Lesniak's Salesperson Affiliation Form on her NH salesperson renewal application on September 5, 2013, where she failed to disclose her disciplinary action against her Maine real estate associate broker license while licensed



under Respondent Dickey as the responsible broker in Maine of New England Coastal Realty, Inc. dba: Keller Williams Realty, in violation of RSA 331-A:26, XXVII. (Notice of Hearing, paragraph 5D)

**Disciplinary Action:**

Based upon the Findings of Facts and Rulings of Law above, the Commission has voted to order the following:

IT IS **ORDERED** that Respondent Lesniak pay a disciplinary fine in the amount of two-hundred fifty dollars (\$250) for each violation with a total fine in the amount of five-hundred dollars (\$500) to the New Hampshire Real Estate Commission, payable to the Treasurer State of New Hampshire within ninety (90) days of the effective date of this Order. Failure to comply with this disciplinary Order will result in the suspension of Respondent Lesniak's real estate license until the fine is paid.

IT IS **ORDERED** that Respondent Dickey pay a disciplinary fine in the amount of two-hundred fifty dollars (\$250) to the New Hampshire Real Estate Commission, payable to the Treasurer State of New Hampshire within ninety (90) days of the effective date of this Order.

IT IS **FURTHER ORDERED** that Respondent Dickey and all managing brokers licensed under Respondent Dickey to show proof of full attendance at the New Hampshire Real Estate Commission accredited 3-hour continuing education course titled, "Policies and Procedures Manual" by submitting to the Commission the affidavits of the completed course (this continuing education course is to be completed by classroom delivery method only and will not to be counted towards Respondent's or Respondent's managing brokers continuing education requirements for renewal of license) within ninety (90) days of the effective date of this Order. Failure to comply with this disciplinary Order will result in the suspension of Respondent Dickey's real estate license until the fine is paid and the course is completed.

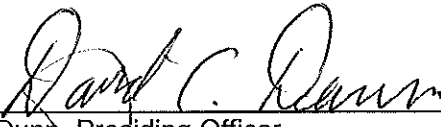
IT IS **FURTHER ORDERED** that the Respondents failure to comply with any terms or conditions imposed by this Final Decision and Order shall constitute unprofessional conduct pursuant to RSA 331-

A:26, XXIX, and a separate and sufficient basis for further disciplinary action by the Commission against the Respondents.

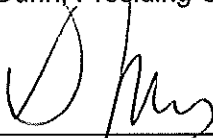
IT IS FURTHER **ORDERED** that this Final Decision and Order shall become a permanent part of the Respondents disciplinary file, which is maintained by the Commission as a public document.

IT IS FURTHER **ORDERED** that if this decision is not appealed within 30 days of the effective date, it shall become final. See RSA 331-A:28, III ("The action of the commission in revoking, suspending, or denying a license or accreditation, or levying a fine, shall be subject to appeal to the superior court at the instance of the licensee or an accredited individual, institution, or organization, within 30 days after the filing of the commission's decision...").

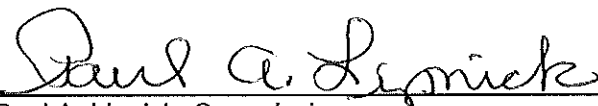
IT IS FURTHER **ORDERED** that this Final Decision and Order shall take effect as an Order of the Commission on the date the Commission signs it.

  
\_\_\_\_\_  
David C. Dunn, Presiding Officer

1/21/2014  
Date

  
\_\_\_\_\_  
Daniel S. Jones, Commissioner

1/21/14  
Date

  
\_\_\_\_\_  
Paul A. Lipnick, Commissioner

Jan. 21, 2014  
Date

\*\ William E. Barry, Commissioner member, (case evaluator) recused.  
James R. Therrien, Commission member, recused.